



# THE COMMONWEALTH OF MASSACHUSETTS

## WATER RESOURCES COMMISSION

100 Cambridge Street, Boston MA 02114

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### **Meeting Minutes for November 13, 2003**

#### **Members in Attendance:**

Karl Honkonen	Designee, EOE
Marilyn Contreas	Designee, DHCD
Cynthia Giles	Designee, DEP
Mark Tisa	Designee, DFG
Joe McGinn	Designee, DCR
Richard Butler	Public Member
Gary Clayton	Public Member
Frank Veale	Public Member
David Rich	Public Member
Bob Zimmerman	Public Member

#### **Others in Attendance:**

Mike Gildesgame	DCR
Linda Marler	DCR
Michele Drury	DCR
Vicki Gartland	DCR
Steve Garabedian	USGS
Margaret Kearns	Riverways
Sara Cohen	DCR
Duane LeVangie	DEP
L.F. Ross	Plainville Water Commission
James R. Marshall, Jr.	Plainville Water & Sewer Supt.
Paul Howard	Tata & Howard
Mike Stankovitch	North Attleboro Public Works
Gene Allen	North Attleboro Public Works

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#### **Agenda Item #1: Executive Director's Report**

Marler provided an update on the hydrologic conditions:

- October continued the trend of above normal precipitation. There was about 5.7 inches, statewide. There was a bit of flooding in the Connecticut River Valley from these rainfall events. This region had almost 11 inches of excess precipitation in the last three months. This is about 194% for the three month period. All the other regions of the state are in good shape, although there have been some high percent of normal precipitation for this period
- Ground water levels are at normal or above normal across the state.
- Surface water runoff was normal or above normal across the state. There were a couple of visible spikes on the hydrograph (October 15<sup>th</sup> and October 27<sup>th</sup>) in response to the rainfall events.

- Reservoir levels are above normal. They are higher than they have been for the last two years in November. The Cobble Mountain Springfield reservoir has finally filled for the first time since the spring of 1999.
- Forecasts: precipitation for November, to date, has been below normal, but given the precipitation totals from the past few months, this is not a problem. The forecast for rest of the month is for above normal temperatures and above normal precipitation.
- Marler attended the Southern New England Weather Conference on November 1<sup>st</sup>. The winter weather forecast is for a cold and snowy winter, based on last year's trends, however recent solar flare activity may interfere with this.
- The hurricane season ends November 30.

Honkonen gave the Executive Director's Report:

- EPA is once again issuing watershed grants. EOEPA will be screening applications from interested parties. Applications should be submitted to Honkonen by December 3<sup>rd</sup>, so that the Governor can make recommendations to EPA. EPA's website has all the information: [www.epa.gov](http://www.epa.gov).
- The Secretary is interested in revising water policy to reflect current conditions and needs. She wants to appoint a task force of interested parties, including agencies, business groups, academia, watershed associations, and members of the WRC. The time frame to complete the task force's work will be 3-4 months. The Secretary is considering names of individuals to serve on this task force. An announcement is expected on this within the next few weeks. Honkonen is concerned about the WRC's involvement and the role of the WRC in this process. He has been discussing this with the Secretary.
- The Legislature passed an amendment reducing the number of public members on the WRC from six to five. Upon discussion with the Governor's office, there are two valid appointments; the others have expired. Honkonen has consulted with legal counsel, and the decision was made that the two public members with valid appointments will stay. The others will need to reapply for consideration for reappointment. This will need to include a representative of the ground water industry. According to discussions with legal counsel, only members with valid appointments can vote. Gildesgame stated that it was very important for agency members to attend the meetings until this issue is settled, to assure that there will be a quorum. Rich is concerned that cutting down on public input to the policy making process is a bad trend.
- Honkonen asked Drury to update the WRC on interbasin transfers. Plainville will be addressed today. Staff filed comments with MEPA on the FEIR for Reading, requesting some clarification on some of the information in the FEIR. Once this is resolved, it will be brought to the WRC for a vote on completeness. The Town is working on this request now. A notice of project change (NPC) for the Aquaria project was received from Brockton. MEPA requires an NPC from any community applying to purchase water from Aquaria. This should address, among other things, interbasin transfer issues. Brockton's NPC was submitted October 31<sup>st</sup>. Comments are due on November 28<sup>th</sup>. Staff is reviewing this to make sure that all the information needed to evaluate the request against the water management criteria of the ITA has been provided. The decision on the NPC should be issued by December 8<sup>th</sup>. The ITA process cannot begin until the MEPA process has been completed. Also on October 31<sup>st</sup>, the draft EIR for the Comprehensive Wastewater Management Plan (CWMP) for the Town of Wilmington was received. Wilmington's CWMP is addressing the wastewater system, which is not jurisdictional under the Interbasin Transfer Act, as well as the water supply system. The Town is proposing to join the MWRA

Water Works system. This is jurisdictional under the ITA. Staff will be reviewing the DEIR to make sure all the information needed for ITA review has been provided. As with Brockton, the ITA process cannot begin until the MEPA process has been completed. Because this is just a Draft EIR, it might be awhile before this comes before the WRC.

- Honkonen and Staff attended a conference at Harvard, entitled Ecological Engineering for Integrated Water Management. It was an interesting mix of academic, industry and agency staff from all over the world. There was a presentation from Dow Chemical on how they most efficiently utilize water and wastewater. There was also a presentation about Ford Motors Rouge River plant, which has the largest green roof in the world. They discussed their quest to reduce water use and mitigate storm water runoff impacts on their 100-acre facility. We presented information on current Massachusetts policy initiatives, such as water assets and Low Impact Development. It was interesting to get an international perspective. Gartland said there was a lot of talk about water reuse and there were questions about why Massachusetts was so far behind in this field. Singapore presented an interesting talk about water reuse in that country.
- A work group has been formed to promote Low Impact Development (LID) technology.
- Gartland updated the WRC on USGS issues. USGS's funding has been leveled. As a result, there is a need to discontinue some gages. Clayton asked if the regulated community could be charged to maintain the gauges, particularly if the gages are being used for compliance. Beavers have also been causing problems at gages because of damming up the river. A more uniform approach to address this problem needs to be found.

**Agenda Item #2: Vote – Plainville's Interbasin Transfer application for the Lake Mirimichi Wellfield as complete**

Drury acknowledged Plainville's representatives. The Lake Mirimichi wellfield is in the town of Plainville, in the Taunton River basin. Plainville has land area in the Taunton, Blackstone and Ten Mile River basins. Water will be used in town, but wastewater is transported, treated and discharged at the North Attleborough treatment plant, which is physically located in the City of Attleboro, in the Ten Mile River basin. Water from this wellfield will cross a town line and basin line and thus is subject to ITA review. The wellfield has an approved yield of 0.4 million gallons per day (mgd). It was hoped that this could be reviewed as a request for a determination of insignificance, but the City of Attleboro operates the dam at Lake Mirimichi, which flows into the Wading River. This complicated the analyses. Therefore, it was suggested that Plainville request a full review.

DCR, DEP Office of Watershed Permitting and the Southeast Regional Office, DFG Division of Fisheries and Wildlife and Riverways Program reviewed the application. It was reviewed against the information needed to evaluate an interbasin transfer request. This project has been ongoing for many years. It received MEPA review in 1998. At that time, the MEPA regulations did not require an EIR for a full interbasin transfer review. MEPA has been consulted to see if this had changed and they said that an EIR would not be required.

At this point, Staff recommends that the WRC accept the application as complete. No value judgments on the merits of the application are being made. An affirmative vote just gives staff permission to start the review and start the public hearing process. There will be two public hearings on the application, within 60 days of this vote. After this, a Staff Recommendation will be presented and an additional hearing on the Staff Recommendation will be held.

Honkonen asked the representatives from Plainville if they had any comments. Marshall said that the town was looking forward to completing the process and putting the wellfield on line.

<b>V O T E</b>	Zimmerman moved with a second by Rich to accept Plainville's Lake Mirimichi Wellfield Interbasin Transfer application as complete.
	The vote in favor was unanimous of those present and voting.

**Agenda Item #3: Briefing – North Attleboro Hillman/Girl Scout Well ACO and related ITA issues**

Drury acknowledged the representatives from North Attleboro. DEP brought this issue to Staff's attention recently, when it was doing the 5-year Water Management Act permit review. This well should have gone through Interbasin Transfer Act review when it was installed in 1987, but for several reasons, this did not happen. North Attleboro has been trying to modernize and bring its water supply system into compliance with various regulations. Staff acknowledge their good work. Honkonen and Drury discussed this issue with DEP earlier this year, and it was decided that rather than make the town retroactively apply for ITA review for a well that has been in existence for 16 years, Staff would work with DEP to include the requirements that would have been imposed through the ITA process into the ACO between DEP and the town. The town has recently responded. There are still a few outstanding issues to be worked out before the ACO is finalized.

LeVangie stated that the well was in the Blackstone River basin, and as discussed in the Plainville presentation, the North Attleborough treatment plant is physically located in the City of Attleboro, in the Ten Mile River basin. In the course of DEP's 5-year review for the Blackstone basin permits, it was found that the town was in non-compliance with several other WMA requirements as well. Although they are within the overall withdrawal amounts for all their wells, in both the Blackstone and Ten Mile basins, they have been over-pumping the allowed amount from the Blackstone basin sources. North Attleboro hasn't done the required leak detection surveys and their unaccounted-for water was greater than 15%, so DEP is taking enforcement action to have the town address these deficiencies.

Stankovitch said that if the ITA issue had been raised 16 years ago, the town would have complied, but the well has been operating successfully, with no complaints. The town has agreed to all required conservation measures but has some issues with shutting off the wells at certain streamflow triggers. North Attleboro is willing to put in a staff gauge to monitor the pumpage, but they do not feel that they can shut off the well. Drury added that they have done or are in the process of completing all of the conservation requirements that Staff has recommended. North Attleboro feels the unaccounted for water statistics were a clerical error, and that when recalculated, will be less than 15 percent. A new water treatment plant has been constructed in the Ten Mile River basin, and this has been used more in the past six months. They do not expect any permit violations in the future.

Clayton asked if there was a gage in existence on this river. Gartland answered that there were some measurements, and the USGS has a gage downstream, being used for a different project that the town may be able to take over in the future. Staff is working with DEP on this now. Garabedian added that the USGS gage had only been put in a few months ago and it hadn't been

rated yet. This will take some time. Gildesgame asked if this would help determine if the gage is appropriate to monitor impacts of this well. Stankovitch said the town would work with USGS to determine this. If it is not, the town is willing to install a gage in the appropriate area.

Tisa asked about the requirement to produce a plan to reduce demand when streamflow in the Abbot Run River approaches a certain threshold. The town's letter states that there is no statistically valid streamflow data to make such a crucial management decision. Is the town opposed to producing a plan or is it challenging the streamflow numbers? Stankovitch replied that the town does not think the streamflow threshold numbers are valid. The data is limited and North Attleboro thinks it is premature to shut down the wells or reduce their useage until they are comfortable with the science. Giles suggested it wasn't appropriate to have a public discussion on an enforcement issue, but if the WRC members had any comments they would like to make, DEP will consider them. Stankovitch said that North Attleboro is willing to gage the Abbot Run River to get a larger data set in order determine the correct numbers. Zimmerman said the data record should prove that the town is not having impact, rather than proving that there is an impact. Stankovitch replied that the town is asking for five years to gather additional information. They cannot shut off the well without public health and safety impacts.

Zimmerman asked what the default would be for ITA review if there weren't a gage in the area. Gartland answered that a proponent is usually asked to look at a similar gage nearby. Drury added that the numbers Staff have requested for the ACO were from the Blackstone River basin plan, approved by the WRC in 1991. Zimmerman suggested that we use these numbers so that we don't have to wait five years. Gartland interjected that this was a different situation, because the water supply has been in operation for several years. Zimmerman said that just because they've been doing it wrong for 16 years, doesn't mean they should continue. Stankovitch said that if the regulations should have been enforced 16 years ago, North Attleboro would have complied. The town wants to move ahead and come into compliance, but can't put its customers in jeopardy. Howard added that in the past 16 years, no environmental issues have been raised with the operation of this well.

Marler stated that the streamflow thresholds proposed are well below the aquatic baseflow thresholds. They are not unreasonable. Tisa asked if it would be appropriate to have DEP report back to the WRC on the final ACO. Giles replied that DEP would make a presentation. Tisa asked what happens if DEP agrees to flow conditions that the WRC does not agree to? Drury replied that the WRC could reserve the right to make North Attleboro come in retroactively for IBT review.

#### **Agenda Item #4: Discussion – The 2004 WRC work plan, July workshop and action items**

Honkonen suggested that the first part of this discussion focus on how the WRC operates. He referred to the July workshop in Mashpee, where preliminary discussions began on this topic, including what the Commission does, what it doesn't do and how it could function better. He distributed a synopsis of issues discussed in July. The topics are divided into three headings:

- How meetings work/who comes to meetings
- How issues are dealt with
- How the Commission might better function in committee or workshop sessions

Zimmerman digressed and asked what could make Interbasin Transfer approvals a permissible process. Because it is not a permit, he stated, the WRC can't structure conditions like it could if it were a permit. Drury reminded the WRC that it decided after the Canton approval that it did not want to condition ITA approvals, as it had done in the past. That is why it developed the performance standards. Clayton asked if we could do both. Drury replied the WRC had the prerogative to change its mind, but right now the program was operating on the vote to approve the performance standards, which required that proponents meet those standards before the approval, so that there would be no conditions, except as necessary to assure compliance with shut-off thresholds.

Honkonen said he'd like to discuss meetings and attendance. Giles asked about the requirement to give a one-week notice if attendance was not possible. Honkonen said that if something comes up at the last minute, it is understandable, but if it were known in advance that a representative would not be attending, then notice should be given at least a week in advance.

Honkonen stated that for this Commission to deal effectively, the members must attend or send someone in their place that represents their interests. There should be active participation. The members and designees should bring concerns of the agencies and organizations to the WRC. It might not be possible for every individual to attend every meeting, but if this is the case, someone should be sent in the member's place and be prepared to represent your interests. The idea of alternates was discussed. There was a general discussion about representation and communication. Clayton suggested it might be appropriate for the agency staff to review the designee's participation to assure that it is still effective. Gildesgame suggested that the agency commissioners be informed that the term is three years, after which time the designee could be reappointed. Contreas was concerned about continuity. Clayton said a periodic review might not be a bad idea. Any organization, especially a public institution, is well served by some periodic review of the membership.

Clayton said that it would be useful to make sure that the Commissioners were being kept up to date on WRC activities. Gildesgame said that one of the recommendations from the July workshop was that the designees and public members had the responsibility to report back to their agency or constituency on the WRC activities. Honkonen said that the issues discussed at WRC meetings should be discussed with agency commissioners and the public constituencies, so that input from these groups can be solicited and brought back to the WRC. Tisa said that within his department, it was a time consuming process to solicit input from all the various divisions and programs, as well as discussing issues with the Commissioner. He has streamlined his approach. This seems to have worked. Also it seems that WRC Staff solicit comments from all agencies on issues before the Commission. Honkonen said he understood the difficulties with setting up formal processes to inform the agencies and organizations of the WRC's activities, but each member, as a representative, has to know who needs to be informed, and each of us will need to decide how to do this for our agency and organization.

There was a discussion about committees. Clayton suggested that instead of having a formal structure, committees should continue to be formed on an as needed basis. Gildesgame pointed out that the Water Resources Planning Task Force included WRC members, if the interest was there, but also included a broader group of interested individuals. This group held a series of meetings for a period of time to address a specific topic. Some WRC members (agency and

public) did not participate directly, but sent representatives. Zimmerman asked if the WRC was required to meet monthly. Contreas replied that the statute required monthly meetings. Zimmerman then asked if the Commission could have six regular meetings and six committee meetings. Many people suggested that this was not practical because it was difficult to know far in advance what would be scheduled, especially in terms of interbasin transfer review, which requires votes within a certain time period. Clayton noted that there have been times when there haven't been any pressing items needing WRC attention during a certain month and the meeting had been cancelled.

Rich asked about other items discussed at the July workshop, which were not noted in the synopsis distributed today (water policy and integrating with other agencies). He would like to have this discussion at some point. Honkonen suggested that we discuss this next month.

The draft work plan for 2004 was distributed. Honkonen said that these were developed by Staff as items to focus on next year. Some are carried over from last year, others are new. Honkonen said he'd like to have this process completed by next month, so that in January, there will be an approved work plan and progress can begin on these items.

**Water Assets:** Zimmerman suggested that the name of the water assets project be changed to "Water Sustainability". He thinks that it implies locations where water can be used and developed. Cohen said that the goal is to have project completed by June. There are 131 communities in the study. Community reports and regional reports will be produced. It is hoped that in the next few years, this could be extended to rest of the state. There would be a series of regional meetings on this project and Gildesgame suggested that WRC members be invited. Cohen suggested that the best time for the next WRC briefing would be after the community reports had been completed, so any trends emerging can be identified. Zimmerman is concerned that once these "assets" have been identified, all of the communities in the I-495 belt will come in for permits for the assets that the state has identified for them. Contreas suggested that there should be a cross reference to the sustainable development program. Giles suggested that it would make sense to call this a comprehensive plan and present the other elements that must be considered before developing a water supply. Zimmerman said that this project will contribute to the degradation of water resources in this state. Cohen said that one of the purposes of this project is to point out land areas that communities may want to protect for future water supplies, but it will also state that they will need to investigate further to determine if the area could actually be developed for water supply. Gildesgame and Clayton said that most communities and consulting firms already know where potential water supplies are located. This will not be new or revelatory information. Rather, the project will help alert decision-makers to these areas, which may help protect them. Gartland said that if we don't have basic information about the water resources of the state, it would be impossible to develop water policy or do environmental protection. Zimmerman conceded that this was a good point, but that the emphasis should be on sustainability. Clayton said that absent the type of information that the water asset project would provide, development will still occur, but in an even less sustainable manner. Clayton asked if we could develop a one-page schedule where we'd list which topics would be discussed at which meetings. This will help Staff decide what we can realistically accomplish.

**State Streamflow Standards:** Gartland said that the USGS report was almost completed, it is in draft form. This will be more of a hydrograph approach, rather than a minimum flow approach. It will look at the types of flows that need to be in a river seasonally. Clayton asked when this

would be completed. It is important to get these in place concurrently with the water assets study. Cohen added that the water assets project was meant to be data oriented, rather than prescriptive, because we cannot really prescribe anything until the streamflow standards are in place.

**Water Policy Development:** Zimmerman said that water policy is overarching. The notion of water policy in this state is broken and it has been for a while. It needs to be completely overhauled. He doubts that the work of the Secretary's task force will be completed by March. This should come out first before the water assets project reports or streamflow policy is released. Clayton said that the water policy task force's schedule is overambitious. There is a lot of work underway and it is important to continue to work on these issues. These standards should be developed and implemented, even without the completion of the water policy task force work. Tisa said that the water policy task force was an intriguing concept and asked if there will be a special executive session proposed be to brief the WRC on what has transpired or will the Commission need to provide comment on what is being proposed before it is finalized. Honkonen said it would be both. Tisa asked if the results will guide how this Commission functions. Honkonen replied that it may change the way this Commission functions. Tisa stated that if there were not agency representation on the water policy task force, it would be interesting. Clayton wondered if the proposed executive session meets the exceptions to the open meeting law. Honkonen said that this would be checked. Contreas suggested that the WRC should have liaisons with the water policy task force.

**Water Conservation Standards Update:** Gildesgame said that when these standards were approved in 1992, they contained language that recommended updating every five years. The standards need to be reviewed to see if they need to be changed. There are some things in the standards that made sense in the late 80's and early 90's that may not be relevant or workable now. There may be improved techniques that could be added.

**ITA Guidebook:** This has been done. It has been sent to the ITA website, but is not on-line yet.

**ITA Regulation Update:** Staff has worked on these. There has been some level of legal review at EOE, but this hasn't been completed yet. The proposed revised regulations will incorporate wastewater components, which reflect WRC policy. They also provide clarifications on the information needed for ground water transfers. Right now, the regulations seem to be slanted towards surface water withdrawals. There is nothing new in the proposed revised regulations. This is an attempt to formalize what the WRC has requested in the past for all types of transfers. The third party language already approved by this Commission will be incorporated as well.

**Ipswich River Basin Plan:** This is on hold because of the legal challenges to the Water Management Act permits.

**Stressed Basins:** Work on this continues. The Riverways RIFLS program working with volunteers to monitor streamflow. Clayton asked about the product to be developed from any of these items. He would like to see dates when certain programs will be completed.

**Low Impact Development:** There is a group working on this issue. We are looking for funding. There has been a high level of interest in this project from a wide variety of organizations.



**Regulatory reviews:** These are always going to happen. There will definitely be at least one on the agenda between now and March. There are others that have been in pre-application discussions.

**GEIR for Lakes and Ponds Management:** This will be completed this winter. The CAC is meeting in December. The final GEIR will be sent to MEPA in January. The final, approved document will be out in the spring. The WRC will be briefed in March. Workshops will be conducted statewide.

**Speaker series:** When we have time, this should be considered on a sporadic basis. Tisa asked if the Commission could focus on fewer key items, so that the members do not get “burnt out” by the end of the meeting. He suggested that the non-regulatory issues should be minimized so that the meetings will be focused and well attended. The agendas need to be carefully looked at to make sure that we don’t get overloaded. Zimmerman suggested that the WRC hold a conference once a year to let the regulated community know about the policies and programs that have been adopted and are currently under development. McGinn reminded the Commission that this was all discussed at the July workshop. It was suggested then that morning sessions could deal with “lighter” issues, such as speakers or informational sessions, and the official afternoon sessions could then be used to deal with the policy and regulatory work that the WRC is required to do. Marler suggested that the speaker series could be an optional brown bag series.

**Watershed action plans:** These are under development now by a variety consultants. It is an ongoing process. There are 11 left to be completed. The WRC will be updated on this.

Honkonen asked if there were any other items that should be on the work plan. McGinn suggested that the WRC should look into providing speakers for other conferences, such as the upcoming MMA workshop. We should be proactive. This would respond to Zimmerman’s comment about the annual conference for the regulated community. Honkonen said he would contact the MMA.

Contreas suggested that the work plan items be sorted by those which actually need to be before the WRC and items that are informational only. Tisa said the items should be prioritized and it would be helpful to have some draft agendas. Honkonen replied that the schedule discussed earlier would do this.

Meeting adjourned

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Meeting minutes approved 10/14/04